

IC 27-14-7

Chapter 7. Miscellaneous Provisions

IC 27-14-7-1

Supplemental nature of article; applicability of other insurance statutes

Sec. 1. (a) This article, while independent of any other law, is supplemental to IC 27-1-2 through IC 27-1-20.

(b) Except as provided in this article, all provisions of IC 27-1-2 through IC 27-1-20 are fully and completely applicable to this article in the same manner as if the provisions of this article had been an original part of IC 27-1-2 through IC 27-1-20. If any conflict exists between this article and IC 27-1-2 through IC 27-1-20, this article is controlling.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-2

Limitation of actions

Sec. 2. A civil action:

- (1) challenging the validity of; or
- (2) arising out of;

action that is taken or proposed to be taken under this article must commence not later than sixty (60) days after the approval by the commissioner of the plan under which or in respect of which the action is taken or proposed to be taken.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-3

Severability of provisions

Sec. 3. The provisions of this article are severable in the manner provided in IC 1-1-1-8(b).

As added by P.L.5-2000, SEC.4.

IC 27-14-7-4

Judicial review of action of commissioner; mandamus

Sec. 4. (a) A person who is aggrieved by an action of the commissioner under this article may petition for judicial review of the action under IC 4-21.5-5.

(b) A person who is aggrieved by a failure of the commissioner to act or make a determination required by this article may bring an action for mandate in the circuit court of Marion County to compel the commissioner to act or make the determination.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-5

Treatment of confidential information

Sec. 5. (a) Except as provided in this section, IC 5-14 applies to all filings made under this article.

(b) Filings made under this article may include information that might be damaging to an applicant or its affiliate if made available

to competitors. Subject to subsection (c), all information, documents, and copies of the filings containing trade secrets of an applicant or its affiliate are declared:

- (1) confidential for the purposes of IC 5-14-3-4; and
- (2) not subject to inspection and copying by the public under person, except to insurance departments of other states which agree to such confidential treatment;

without the written consent of the person to which they pertain.

(c) If the commissioner, after giving notice to the person seeking such confidential treatment and any other person requesting disclosure, after giving them an opportunity to respond at a departmental hearing in camera, and after giving due consideration to any legitimate interest in preserving trade secrets, determines that the members or policyholders have a compelling interest that would be served by disclosure, then the commissioner, after five (5) business days have elapsed from notification to the applicant, may disclose all or any part thereof in a manner and subject to the limitations as the commissioner determines appropriate.

(d) If within the five (5) business days period referred to in subsection (c), the applicant notifies the commissioner that the applicant or other interested party has filed an action seeking a protective order from a circuit or superior court to prevent or to limit disclosure, the commissioner shall not disclose the information, documents, or copies thereof during the pendency of the action and any appeal or after any final court decision prohibiting disclosure.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-6

Prohibited acts

Sec. 6. An MIHC and its subsidiaries and affiliates may not do any of the following:

- (1) Lend funds to a person to finance the purchase of stock in a stock offering by an MIHC or any of its subsidiaries other than policyholder loans granted under the terms of an insurance policy of a subsidiary.
- (2) Pay commissions, special fees, or other special or extraordinary compensation to officers, directors, interested persons, or affiliates for arranging, promoting, aiding, assisting, or participating in the structure or placement of a stock offering by the MIHC or any of its subsidiaries, except to the extent permitted under IC 27-14-4.
- (3) Enter into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of this article.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-7

Reorganized insurer or MIHC having all rights and obligations of MIC

Sec. 7. (a) Except as provided in subsection (b), a reorganized

insurer to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this article has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the MIC that is the subject of the plan of reorganization.

(b) An MIHC resulting from a plan of reorganization of a MIC under this article, has all obligations and liabilities of the MIC for any claim, asserted or otherwise, that existed at the effective date of the reorganization and that:

- (1) seeks the imposition of a constructive or charitable trust on assets of the MIC for the benefit of policyholders, members, or other persons;
- (2) seeks distribution or return of assets, or other form of compensation, from the MIC to policy holders or members; or
- (3) otherwise arises out of, or relates to, the ownership interest of policyholders or members of the MIC, or to the value of their ownership interests, including any claim that challenges a statutory transaction engaged in by the MIC before the effective date of the reorganization.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-8

Effect of reorganization on pending actions

Sec. 8. If a proceeding is pending against an MIC that is the subject of a plan of reorganization under this article:

- (1) the proceeding may be continued after the effective date as if the reorganization had not occurred; or
- (2) the reorganized insurer that is the successor to the MIC's business may be substituted in the proceeding for the MIC;

except that the MIHC resulting from the plan of reorganization shall be substituted for the MIC and any subsidiaries of the MIC in all proceedings involving any claim described in section 7(b) of this chapter.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-9

Conversion of MIHC to stock company

Sec. 9. An MIHC may convert to a stock company under IC 27-1-8-13 as though the MIHC were an MIC.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-10

Experts hired by commissioner

Sec. 10. The commissioner shall, at the applicant's expense, hire attorneys, actuaries, accountants, investment bankers, and other experts as may be necessary to assist the commissioner in reviewing all matters under this article that are associated with a plan of reorganization or a plan to issue stock. The commissioner may at any time require an applicant to deposit an amount of money with the

department of insurance in anticipation of expenses to be incurred by the commissioner under this article.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-11

Adoption of rules

Sec. 11. The commissioner may adopt rules under IC 4-22-2 to carry out the purposes of this article.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-12

Reorganization of domestic MIC with foreign mutual holding company

Sec. 12. (a) A domestic MIC may reorganize with a foreign mutual holding company by complying with IC 27-14-2. The commissioner may waive any provision of IC 27-14-2 if the commissioner determines the provision to be unnecessary for the protection of policyholders and members.

(b) A plan of reorganization under subsection (a) is effective when the reorganized domestic stock insurance company subsidiary has filed its articles of amendment and amended certificate of authority in the office of the county recorder of the county in which the principal office of the company is located or at a later date specified in the plan of reorganization.

(c) A domestic MIC seeking to reorganize under subsection (a) may at the same time redomesticate to another state by complying with IC 27-1-6.5 and the applicable requirements of the state to which it seeks to transfer domicile.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-13

Acquisition of foreign MIC by existing MIHC; granting membership interests

Sec. 13. (a) An existing MIHC may, with the prior approval of the commissioner:

(1) acquire direct or indirect ownership of a converting foreign MIC that becomes a stock insurer in compliance with the laws of its state of domicile; and

(2) grant membership interests and equity rights to the members or policyholders of a foreign mutual insurer that merges with a direct or indirect domestic or foreign subsidiary of the MIHC or is otherwise acquired by the MIHC.

(b) The commissioner shall consider the fairness of the terms and conditions of the transaction, whether the interests of the members of each MIHC that is a party to the transaction are protected, and whether the proposed transaction is in the public interest when determining whether to approve a transaction under subsection (a).

As added by P.L.5-2000, SEC.4.

IC 27-14-7-14

Concurrent reorganization of multiple MICs into single MIHC

Sec. 14. The concurrent reorganization of two (2) or more MICs into a single MIHC structure under IC 27-14-2 may be accomplished by a joint application and a joint plan of reorganization and may be approved by the commissioner following a combined hearing. The commissioner may allow such other procedures as may be necessary or desirable to avoid unnecessary or duplicative costs and efforts in satisfying the requirements of this article and in effectuating the reorganization.

As added by P.L.5-2000, SEC.4.

IC 27-14-7-15**Reorganization of MIHC with foreign mutual insurance holding company**

Sec. 15. An MIHC may reorganize with a foreign mutual insurance holding company, subject to the approval of the commissioner, under IC 27-1-23. If the MIHC is not the surviving entity in any reorganization transaction, then the commissioner must consider the effect of the transaction on the protections afforded policyholders under the members' surplus protection principle in determining whether the transaction is in the best interests of the policyholders. If the commissioner waives any or all of the provisions of the members' surplus protection principle in approving a transaction, then the commissioner must explain the basis for waiving the provisions in writing in the order approving the transaction.

As added by P.L.5-2000, SEC.4.